

CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM

BILL ANALYSIS

Senate Bill 102 **Senator Burton (As amended 4/29/03)**

Position: **Sponsor**

Proponents: **CTA (Sponsor)**

Opponents: **None known**

SUMMARY

Senate Bill 102 includes up to two-tenths of unused sick leave in determining eligibility for career-based enhancements to Defined Benefit (DB) Program allowances, such as a single year final compensation, the career factor and the longevity bonus. Additionally, a member of the DB Program or a participant in the Cash Balance (CB) Benefit Program would be exempt from paying employee contributions for the crediting of the DB Program service or CB Benefit Program accounts, for the period of time served in the armed forces, not to exceed one year, if the period of service occurred between September 11, 2001 and July 30, 2005. The bill would also appropriate \$124,000 from the Teachers' Retirement Fund (Fund) to the Teachers' Retirement Board (Board) to pay the costs of modifying the system's database of member accounts.

HISTORY

Chapter 903, Statutes of 2002 (SB 1983—Soto) would have included up to 0.2 years of unused sick leave in determining eligibility for career-based enhancements to DB Program allowances, such as a single year final compensation, the career factor and the longevity bonus. That provision was deleted from the bill prior to its enactment.

AB 979 (Cedillo, 2001) would have exempted members of the DB Program and the CB Benefit Program called to active military duty between September 11, 2001 and July 30, 2005, from paying the required member contributions for up to one year and receive retirement benefits for their military service. This bill was held in Assembly.

Chapter 1028, Statutes of 2000 (AB 821—PER&SS) bases final compensation on the highest average annual compensation earnable by a member during a consecutive 12-month employment period rather than highest three consecutive years for members with at least 25 years of credited service.

Chapter 1029, Statutes of 2000 (AB 1933—Strom-Martin) pays a longevity bonus of \$200 to \$400 per month for members who retire after 2000 and accrue at least 30 years of credited service by 2011.

Chapter 1006, Statutes of 1998 (AB 1102—Knox) among other things, extends eligibility to receive credit at retirement for unused sick leave to members of California State Teachers' Retirement System (CalSTRS) DB Program who became members on or after July 1, 1980, and who retire on or after January 1, 1999.

Chapter 965, Statutes of 1998 (AB 2765—Assembly PER&SS) the CalSTRS annual technical housekeeping bill, among other things, makes technical changes to the Teachers' Retirement Law (TRL) that allow participants in the CB Benefit Program to receive credit for time served on active duty.

Chapter 680, Statutes of 1996 (SB 1877—Rogers) conforms the laws affecting CalSTRS, the California Public Employees' Retirement System, and '37 Act County Retirement Systems to conform with the federal Uniformed Service Employment and Reemployment Rights Act of 1994 (USERRA). It provides for a five-year limit on an individual's cumulative length of absence from a position of employment by reason of service in the uniformed services for the purposes of retirement benefits and requires employers to pay their share of retirement contributions for the period the member was on active duty.

Chapter 543, Statutes of 1991 (SB 1171—Senate PE&R) the CalSTRS annual technical housekeeping bill, among other things, allows DB Program members who served on active military duty in the Persian Gulf conflict to receive service credit for the time spent on military leave between August 1, 1990 to January 1, 1992, without cost to the member or employer.

SUMMARY OF CHANGES

The April 29, 2003 amendments:

- Clarify that up to two-tenths of unused sick leave can be used in determining eligibility for career-based enhancements, including one-year final compensation, the career factor and the longevity bonus to DB Program allowances.
- Exempt payment of DB Program member and CB Benefit Program participant retirement contributions for the period of time during which he or she served in the uniformed services, up to one year, if the period of service occurred between September 11, 2001 and July 30, 2005.
- Appropriates \$124,000 from the Fund to the Board to modify the system's database of member accounts, as specified.

CURRENT PRACTICE

Unused Sick Leave

Current law grants members of the DB Program additional service credit for accumulated unused sick leave at retirement. CalSTRS receives certification from the member's last employer, and determines this service credit by dividing the number of accumulated unused sick leave days by the number of base days (contracted days) for full-time service. Members who retire with at least

30 years of service credit receive an additional 0.2 to their age factor, up to a maximum of 2.4 percent; members who retired on or after January 1, 2001, with 25 years of service credit have their highest one-year compensation used in their retirement calculation; and members who retire on or after January 1, 2001, and accumulate at least 30 years of credited service by January 1, 2011, receive a longevity bonus that is added to the lifetime monthly retirement allowance. The member will receive \$200 for 30 years; \$300 for 31 years; and \$400 for 32 or more years.

Typically, only "earned" service credit qualifies members for the benefit enhancements. Currently, unused sick leave service credit cannot be used in determining eligibility for benefit enhancements.

Military Service

The federal USERRA strengthened public and private sector employment protections for reservists and members of the National Guard called to active duty. CalSTRS implemented these protections with the passage of Chapter 680, Statutes of 1996 (SB 1877—Rogers), which permitted members of the DB Program and participants in the CB Benefit Program in the reserves and National Guard to purchase additional service credit (in the case of the DB Program) or make contributions (in the case of the CB Benefit Program) for their time spent on military duty away from employment, whether for active, inactive or training purposes. To purchase military service, members pay the employee contributions based on the compensation earnable they would have received had they not been absent. CalSTRS employers pay their normal contribution for their returning employees' military service based on compensation earnable only if the member elects to purchase their service and make the employee contributions. Under USERRA, military service not purchased by a member of the DB Program does, however, count towards plan vesting within specified limits. CalSTRS employers are required to notify their eligible returning employees of these options upon their return to the classroom.

CalSTRS employers are required to notify the System upon reemployment of a member following an eligible period of service in the uniformed services. The employer calculates the amount of member and employer contributions required for the eligible period of uniformed service. CalSTRS verifies the employer's calculations, and the employer must then remit the required employer contributions within 60 working days of the date they first notified the System of the member's reemployment. The contributions are based upon the creditable compensation that would have been earned by the member if he or she had been continuously employed in the position or positions in which he or she was employed immediately prior to the eligible period of service. When the member's creditable compensation is not reasonably certain, the contributions are based on the member's average compensation earnable during the 12-month period immediately preceding the eligible period of service in the uniformed services. Currently, participants in the CB Benefit Program in the reserves and National Guard are also allowed to purchase their time away from the classroom performing military service in much the same manner as members of the DB Program.

Prior to the enactment of Chapter 680 in 1996, which implemented USERRA, CalSTRS allowed members to purchase permissive service credit for time served on active military duty (including in the uniformed auxiliary) or the full-time paid service of the American Red Cross prior to September, 1957 if the service was performed either during war or times of national emergency or during peacetime if they were drafted. In order to receive permissive service credit, eligible members were required to pay both the employer and employee contributions for the service they would have performed in the classroom. CalSTRS members who performed active duty service prior to 1996 remain eligible to purchase or receive service credit for their former active duty service.

Eligible members have previously been exempted in statute from paying the required contributions if they served on active military duty during specified time periods that coincide with WWII and the Korean, Vietnam and Persian Gulf conflicts. In order to receive service credit paid by CalSTRS, the eligible member submitted their application and documentation to CalSTRS, and the employer submitted their records for the period the member would have performed creditable service. The costs associated forgoing member and employer contributions in these previous wars and conflicts were absorbed by the System.

DISCUSSION

SB 102:

- Allows up to two-tenths of one year of unused sick leave to be used in determining eligibility for career-based enhancements including a one-year final compensation, the career factor and the longevity bonus.
- Eliminates the requirement that a DB Program member or CB Benefit Program participant pay the employee contributions the member or participant would have made to their employee account as a condition of his or account being credited for the eligible period of service in the uniformed services if the period of service occurred between September 11, 2001 and July 30, 2005, and the member or participant returns to employment prior to July 30, 2005, with the same employer that had employed the member or participant prior to the eligible period of service;
- Limits the exemption on the payment of employee retirement contributions to the contributions that would have been paid during the first 12 months of eligible military service;
- Specifies that employers of DB Program members and CB Benefit Program participants exempted from paying employee contributions must continue to make the required employer contributions.

Unused Sick Leave

According to the author, this bill is designed to allow borderline cases to be eligible for benefit enhancements. Borderline cases are those members who don't have the full amount of required service credit to qualify for one-year final compensation (25 years), career factor or longevity bonus (30 years) at the end of the school year. In addition, members who are a few days short of qualifying for the benefit enhancements may work the required number of days in the subsequent school year, either in summer school or the fall. This could leave employers in a difficult situation by having to find replacement employees after the term has begun. Permitting the use of a portion of unused sick leave would avoid this problem in many cases. Finally, this bill would have a positive impact on benefit recipients who don't have the required service credit at the time they apply for a benefit due to the delay in reporting employer information. The ability to use unused sick leave service credit provides a "cushion" of service credit for these retirees.

According to the System Actuary, the total number of members impacted is expected to be small. This is because the only members affected are those whose current or projected years of service without the addition of unused sick leave is between 24.880 and 25, or 29.880 and 29.999, or 31.880 and 31.999, or 32.885 and 32.999.

Military Service

Under this bill, the DB Program member or CB Benefit Program participant returning to employment after a period of qualifying military service would submit his or her application to receive service credit in the same way as he or she would to purchase that time as additional service credit. However, the member or participant would not be required to submit payment for the employee contributions normally required by CalSTRS. The amount of the employers' contributions due to the system would be billed after the member returns to work. At that point, the employer would make one payment covering the contributions due for the period of military service.

SB 102 is similar to previously enacted legislation that provided CalSTRS members who served on active duty in the armed forces, reserves, and National Guard during times of armed conflict, full service credit for their eligible military service at no cost to the member. However, under this bill, the cost to CalSTRS is approximately half of what it otherwise would have been in prior legislation, because Chapter 680, which was enacted after the Persian Gulf conflict, requires employers to continue to pay their portion of the required contributions to the System.

According to the sponsor, SB 102 provides public employees in school districts many of the benefits that were recently extended to state employees, and will help ease the financial burden that results from serving our country during this time. He believes it is important to assist these public employees and their families, who are stressed and making a tremendous sacrifice with the absence of a parent and spouse.

FISCAL IMPACT

Benefit Program Cost –

Unused Sick Leave- The additional cost of permitting the use of unused sick leave to qualify for benefit enhancements could range from as low as zero to \$58 million, depending on what the member would have done under current law. If the member had performed the additional service to qualify for the enhancements, the cost of allowing the use of unused sick leave instead would be quite small—the foregone revenue from contributions that would have been paid for that additional service. If, for example, 50 percent of the members who retire performed additional service in order to qualify for the benefit enhancements, the System Actuary estimates that the present value cost of authorizing the use of up to two-tenths of one year of unused sick leave to qualify for enhanced benefits would be approximately \$29 million.

Alternatively, if members did not work the additional service needed to qualify for the benefit enhancements, the maximum present value cost of authorizing the use of up to two-tenths of one year of unused sick leave would be approximately \$58 million. (The cost would essentially be the same if the maximum amount of unused sick leave was 0.200 years.) The annual revenue needed to support that maximum cost would be \$5 million, beginning in fiscal year 2003-04.

Military Service- Following the Persian Gulf conflict, approximately 100 members of the DB Program called to active military duty applied to receive service credit for that eligible period. Since September 11, 2001, CalSTRS estimates that 250 of the DB Program members would apply to be credited for contributions for the maximum allowable year. Based on the 250 eligible members, staff estimates a cost to the Fund of approximately \$1 million. If fifty participants of the Cash Balance Benefit Program apply to receive credit for the eligible period, the additional cost to the Military Service would be approximately \$17,725.

Administrative Costs/Savings –

Unused Sick Leave- The one-time cost of the required changes to allow up to two-tenths of one year of unused sick leave to the System's database is expected to be \$124,000. Absorbing this cost may have a detrimental impact on CalSTRS ability to provide services to its members.

Military Service- Minor and absorbable

BOARD POSITION

Sponsor. This legislation authorizes a limited amount of service credit that was accumulated for unused sick leave to count towards career-based benefit enhancements, and as a result, provides members who were just shy of earning benefit enhancements with an opportunity to do so. Additionally, previously, the Board has sponsored legislation to allow CalSTRS members who served on active duty in the uniformed services, reserves, and National Guard in the Persian Gulf, Vietnam, Korea, and World War II to receive full CalSTRS service credit, at no cost to the member, for their eligible military service. This legislation is consistent with past practice to provide service credit for military service during times of conflict or national emergency. It is also consistent with CalSTRS' goal to raise the quality in delivery of benefits, products, and services to the best in class.